

Message Text

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APPROVED BY THE ACTING SECRETARY

ARA-WROGERS

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EB/IFD/OIA-RSMITH(SUB)

EB/ORF/FSE-SBOSWORTH(SUB)

S/S :APSHANKLE

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FM SECSTATE WASHDC

TO AMEMBASSY CARACAS IMMEDIATE

C O N F I D E N T I A L STATE 250765

E.O. 11652: GDS

TAGS: VE, ENRG

SUBJECT:PETROLEUM REVERSION -- DEMARCHE TO THE PRESIDENT

REFS: (A) CARACAS 10879 (B) CARACAS 10935 (C) STATE 241105

FROM THE ACTING SECRETARY FOR THE AMBASSADOR

1. GREATLY APPRECIATE REFTELS. WE ARE GRATIFIED THAT YOUR REPRESENTATIONS APPEARED TO HAVE BEEN PARTICULARLY TIMELY, THAT PRESIDENT ACKNOWLEDGED THAT THERE IS ELEMENT OF "PROFIT" IN ONGOING CONTRACTS SUCH AS TO INDUCE CONTINUED PRESENCE OF COMPANIES, AND THAT HE CONCEDES THAT ENOUGH ATTENTION MAY NOT HAVE BEEN GIVEN TO PROBLEMS OF SMALLER COMPANIES. WE ARE REASSURED AT PRESIDENT'S AFFIRMATION THAT IT IS GOV'S INTENTION TO MAINTAIN RELATIONS WITH ALL COMPANIES THAT WISH TO CONTINUE.

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2. DURING YOUR WEDNESDAY MEETING WITH MINISTER OF

MINES, YOU SHOULD REITERATE POINTS INDICATED IN ORIGINAL DEMARCHE (REFTEL C). IN VIEW OF PRESIDENT'S STATEMENTS, WE SUGGEST YOU WORK IN FOLLOWING ADDITIONAL POINTS AS APPROPRIATE.

3. WE UNDERSTAND THAT THE TERMS OF THE NATIONALIZATION LAW IMPOSE LIMITS ON THE POSSIBILITIES OF THE GOV TO RESPOND TO THE EQUITIES IN QUESTION. AT THE SAME TIME, WE TRUST THAT THE GOV WILL EQUALLY UNDERSTAND THAT NEITHER THE COMPANIES NOR THE USG CAN DISREGARD THOSE EQUITIES. ACCORDINGLY, (A) ON AMORTIZATION OF CONCESSION BONUSES, FROM VIEWPOINT OF A COMPANY WHICH HAS A RELATIVELY RECENT CONCESSION WITH SUBSTANTIAL PERIOD OF YEARS TO RUN, IT SHOULD RECEIVE LARGER, NOT SMALLER, COMPENSATION, IN VIEW OF THE PREMATURE TERMINATION OF ITS CONCESSION RIGHTS. BUT THE LAW PENALIZES SUCH COMPANIES.

(B) ON DRAINAGE, THE EXTREME DIFFICULTY OF APPLYING EQUITABLY THE LAW'S PROVISIONS SHOULD NOT REDOUND TO THE COMPANIES' PREJUDICE. (C) ON BONDS, WHILE, APART FROM QUESTION OF RATE OF INTEREST, THERE HAS BEEN SOME PROGRESS, PROBLEMS REMAIN. INITIAL PAYMENTS WILL NOT BE MADE UNTIL 1977, A YEAR LATER THAN PREVIOUSLY PROPOSED. IT IS UNCLEAR WHETHER BONDS WILL BE USABLE FOR PURCHASE OF CRUDE, AND, IF SO, TO WHAT EXTENT. (D) ON THE GUARANTY FUND, THERE IS ALSO CONCERN AT THE GOV'S INSISTING ON AGREEMENT BY THE COMPANIES ON A LEVEL OF MAXIMUM COMPENSATION, WHILE RESERVING TO ITSELF THE RIGHT TO TAKE DEDUCTIONS SUBSEQUENTLY ACCORDING TO ITS DISCRETION.

4. WE CANNOT PROVIDE FULL DETAIL ON SPECIFIC CASES, BECAUSE WE DO NOT POSSESS ALL THE FACTS, AND BECAUSE, BY PRESENTING ASPECTS OF SOME CASES, WE WOULD NOT INFERENTIALLY WISH TO OVERLOOK OTHERS. OUR ESSENTIAL SUGGESTION, HOWEVER, IS THAT WAYS BE FOUND TO COMPENSATE COMPANIES EQUITABLY.

IF INEQUITABLE

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PROVISIONS ARE IMPOSED, THERE MAY BE APPEAL BY THE COMPANIES TO THE USG WHICH COULD COMPLICATE THE NATIONALIZATION PROCESS AND USG-GOV RELATIONS.

5. USG HAS BEEN APPRISED OF FACT THAT GOV SEEKS COMPANY ASSENT TO INCLUSION OF QUITCLAIM AND CALVO-TYPE CLAUSES IN COMPENSATION AGREEMENTS. THE DISTINCTIVE APPROACHES OF THE USG AND GOV TO CALVO-

TYPE CLAUSES NEED NOT BE ELABORATED; CLEARLY OUR
GOVERNMENTS HAVE LONG-ESTABLISHED DIFFERING VIEWS.

AS TO QUITCLAIM, WE TRUST THAT THE COMPANIES WILL
NOT BE PRESSED TO ACCEPT SUCH UNTIL, AT LEAST, THE
NATURE OF THE ONGOING CONTRACTS IS PLAIN TO THEM AND
THE DEDUCTIONS FROM THE COMPENSATION FIGURE AGREED
UPON. INGERSOLL

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